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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Everest Indemnity Company,) No. 09-0023-PHX-JAT
10 Plaintiff,) **ORDER**
11 vs.)
12 Apollo Fire, Inc.,)
13 Defendant.)
14 _____)
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16 On February 11, 2009, this Court ordered:

17 In this case, the complaint fails to sufficiently plead jurisdiction. *See* 28
18 U.S.C. § 1332; *Industrial Tectonics v. Aero Alloy*, 912 F.2d 1090, 1092 (9th
19 Cir. 1990) (a corporation is a citizen of every state in which it is incorporated
and the state where it has its principal place of business).

20 Accordingly,

21 **IT IS ORDERED** that by February 25, 2009, Plaintiff (who is the party
asserting jurisdiction and therefore the party with the burden of pleading
jurisdiction, *see id.*) shall file an amended complaint properly alleging federal
subject matter jurisdiction, or this case will be dismissed without prejudice for
lack of federal subject matter jurisdiction.

22 **IT IS FURTHER ORDERED** that Plaintiff is cautioned that it will be given
one opportunity to amend to cure the jurisdiction defects. The Court will not
issue additional *sua sponte* show cause orders to advise Plaintiff how to plead
jurisdiction. Therefore, if the amended complaint fails to plead federal subject
matter jurisdiction, this case will be dismissed without the Court *sua sponte*
granting Plaintiff any further opportunities to amend.

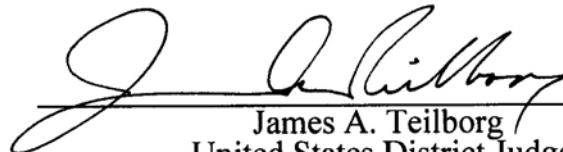
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27 On February 25, 2009, Plaintiff filed an amended complaint. The amended complaint
28 still fails to plead a state of incorporation or a principal place of business for either the

1 corporate plaintiff or the corporate defendant.¹ Plaintiff having been given an opportunity
2 to amend to properly allege federal subject matter jurisdiction and having failed to do so,

3 IT IS ORDERED dismissing this case, without prejudice, for lack of federal subject
4 matter jurisdiction.

5 DATED this 27th day of February, 2009.

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8 James A. Teilborg
9 United States District Judge

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25 ¹ The amended complaint uses the word “domicile” to refer to the “location” of both
26 parties. However, the word domicile does not equal a principal place of business, or a state
27 of incorporation, both of which are required. For example, the state of domicile is relevant
28 for an individual as the individual’s permanent home, but “permanent home” is not part of
the inquiry for a corporation. *Compare Kanter v. Warner-Lambert*, 265 F.3d 853, 857-858
(9th Cir. 2001) and *Industrial Tectonics v. Aero Alloy*, 912 F.2d 1090, 1092 (9th Cir. 1990).